

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SWIMC, INC.)	
a Delaware corporation,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
HY-TECH THERMAL SOLUTIONS, LLC,)	
a corporation,)	
)	
and)	
)	
HY-TECH DISTRIBUTORS, INC.,)	
a corporation.)	
)	
Defendants.)	

**COMPLAINT FOR TRADEMARK INFRINGEMENT, FALSE DESIGNATION OF
ORIGIN, AND UNFAIR COMPETITION**

PARTIES AND JURISDICTION

1. Plaintiff, SWIMC, Inc., is a Delaware corporation with its principal place of business in Wilmington, Delaware.
2. Defendant, Hy-Tech Thermal Solutions, LLC ("Hy-Tech Thermal Solutions"), on information and belief, is a Florida corporation with its principal place of business in Melbourne, Florida.
3. Defendant, Hy-Tech Distributors, Inc. ("Hy-Tech Distributors"), on information and belief, is a Florida corporation with its principal place of business in Melbourne, Florida.
4. This court has jurisdiction because: (a) this is an action brought under the Trademark Laws of the United States (15 U.S.C. §§ 1051, *et seq.*), jurisdiction being conferred in accordance with 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a); (b) this action includes claims of

unfair competition joined with a substantial and related claim arising under the Trademark Laws of the United States, jurisdiction being conferred in accordance with 28 U.S.C. § 1338(b); (c) this is a civil action between citizens of different states in which the value of the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, jurisdiction being conferred in accordance with 28 U.S.C. § 1332; and (d) this action includes claims that are so related to claims within such original jurisdiction that they form part of the same case or controversy, supplemental jurisdiction being conferred in accordance with 28 U.S.C. § 1367.

5. Venue is proper in this Court under 28 U.S.C. § 1391(b).

FACTS

6. For many years, and long prior to the acts of defendants complained of herein, SWIMC, Inc., through its licensees and its predecessors-in-interest (collectively "SWIMC") have been engaged in the manufacture, distribution, advertising and sale of its elastomeric rubber roofing compound in commerce throughout the United States under the ELASTO-SEAL trademark (the "ELASTO-SEAL trademark").

7. SWIMC, Inc. owns the federal registration for the ELASTO-SEAL trademark (Reg. No. 1,648,158), which was registered on June 18, 1991.

8. SWIMC Inc.'s registration for the ELASTO-SEAL trademark is valid and subsisting, is incontestable in accordance with 15 U.S.C. §§ 1064 and 1115(b), and is conclusive evidence of the exclusive right to use the ELASTO-SEAL trademark in connection with the registered goods. 15 U.S.C. § 1115(b).

9. SWIMC has sold many millions of dollars worth of its elastomeric rubber roofing compound product under the ELASTO-SEAL trademark in the United States and has spent substantial sums in advertising its product under the ELASTO-SEAL trademark.

10. As a result of such extensive sales and advertising, the ELASTO-SEAL trademark represents extraordinarily valuable goodwill in the United States.

Defendants' Businesses and Infringing Activities

11. Upon information and belief, Hy-Tech Thermal Solutions is engaged in the manufacture and sale of insulating coating products for use on roofs.

12. Upon information and belief, Hy-Tech Thermal Solutions manufactures and sells an elastomeric roof coating under the name "Elasto-Seal" and/or "Elastoseal."

13. Upon information and belief, Hy-Tech Distributors is an authorized dealer of "Elasto-Seal" and/or "Elastoseal" roof coating.

14. Upon information and belief, in or around 2003, Hy-Tech Thermal Solutions and Hy-Tech Distributors (collectively, "Hy-Tech") began to sell and advertise an elastomeric roof coating under the name "Elasto-Seal" and/or "Elastoseal."

15. Hy-Tech prominently features "Elasto-Seal" and/or "Elastoseal" in its product packaging, advertising and promotional materials, including on their Internet web sites located at <www.hytechsales.com> and <www.hytechdistributors.com>. Representative specimens of Hy-Tech's use of the "Elasto-Seal" and/or "Elastoseal" are attached hereto as Exhibit A.

16. On information and belief, Hy-Tech began use of the "Elasto-Seal" and/or "Elastoseal" name with full knowledge of SWIMC's extensive use of its ELASTO-SEAL mark.

17. Hy-Tech's aforesaid activities are without the consent of SWIMC, Inc.

18. On May 22, 2007, SWIMC, Inc. sent Hy-Tech Thermal Solutions a letter demanding that it cease use of the ELASTO-SEAL mark in conjunction with Hy-Tech Thermal Solutions' product. Hy-Tech Thermal Solutions did not respond to SWIMC, Inc.'s May 22, 2007 letter.

19. On July 31, 2007, SWIMC, Inc. sent a second, follow-up letter to Hy-Tech Thermal Solutions reiterating its demand that Hy-Tech Thermal Solutions cease use of the ELASTO-SEAL mark in conjunction with Hy-Tech Thermal Solutions' product. Hy-Tech Thermal Solutions did not respond to SWIMC, Inc.'s July 31, 2007 letter.

20. On October 25, 2007, SWIMC, Inc. sent a third, follow-up letter reiterating its demand that Hy-Tech Thermal Solutions cease use of the ELASTO-SEAL mark in conjunction with Hy-Tech Thermal Solutions' product.

21. In a letter dated October 29, 2007, Tony Abruzzese, Director of Operations for Hy-Tech Thermal Solutions, responded to SWIMC, Inc.'s letter of October 25, 2007 and indicated that Hy-Tech Thermal Solutions would not cease use of ELASTO-SEAL.

22. As of the filing date of this Complaint, Hy-Tech continues to use, advertise, and sell "Elasto-Seal" or "Elastoseal" roof coating.

COUNT I

(INFRINGEMENT OF FEDERALLY REGISTERED TRADEMARK)

23. SWIMC, Inc. re-alleges paragraphs 1 through 22, as if fully set forth herein.

24. Hy-Tech's acts are likely to cause confusion, mistake or deception as to the source or origin of Hy-Tech's products in that purchasers and others are likely to believe that Hy-Tech or their products are sponsored by, or connected or affiliated with SWIMC, Inc. or its ELASTO-SEAL mark and product.

25. Hy-Tech's acts constitute trademark infringement in violation of 15 U.S.C. §1114.

26. Hy-Tech's acts greatly and irreparably damage SWIMC, Inc., and will continue to damage SWIMC, Inc. unless restrained by this Court; therefore, SWIMC, Inc. is without an adequate remedy at law.

COUNT II

(FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION)

27. SWIMC, Inc. re-alleges paragraphs 1 through 22 and 24 as if fully set forth herein.

28. Hy-Tech's acts constitute a false representation and a false designation of origin, which likely have caused and are likely to cause confusion, mistake or deception, in violation of Section 43(a) of the United States Trademark Act, 15 U.S.C. § 1125(a).

29. Hy-Tech's actions greatly and irreparably damage SWIMC, Inc., and will continue to damage SWIMC, Inc. unless restrained by this Court; therefore, SWIMC, Inc. is without an adequate remedy at law.

COUNT III

(TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION UNDER DELAWARE STATUTORY AND COMMON LAW)

30. SWIMC, Inc. re-alleges paragraphs 1 through 22 and 24, as if fully set forth herein.

31. Hy-Tech's acts constitute an unfair and deceptive business practice in violation of the Uniform Deceptive Trade Practices Act, 6 Del. C. § 2531 *et. seq.*, and trademark infringement and unfair competition in violation of the common law of various states, including the Delaware Trademark Act, 6 Del. Laws C. § 3301 *et. seq.*,

32. Hy-Tech's acts greatly and irreparably damage SWIMC, Inc., and will continue to damage SWIMC, Inc. unless restrained by this Court; therefore, SWIMC, Inc. is without an adequate remedy at law.

WHEREFORE, SWIMC, Inc. prays that:

1. Hy-Tech, its officers, agents, servants, employees and attorneys, representatives, successors and assigns, and any and all persons acting by, through or under authority of Hy-Tech, be permanently enjoined and restrained from:

- a. using the ELASTO-SEAL mark, or any colorable imitation of the ELASTO-SEAL mark, or any name or mark that is confusingly similar to ELASTO-SEAL;
- b. doing any act or engaging in any conduct that is likely to diminish the value and goodwill owned by SWIMC, Inc. in its ELASTO-SEAL mark; and
- c. doing any other act or thing likely to induce the belief that Hy-Tech's business or products are in any way connected with SWIMC, Inc.'s business or products, or are sponsored approved by SWIMC, Inc.

2. Hy-Tech be required:

- a. to account for and pay over to SWIMC, Inc. all gains, profits, enrichments, and advantages wrongfully derived by Hy-Tech through its trademark infringement, false designation of origin and unfair competition, including prejudgment interest, in accordance with 15 U.S.C. § 1117(a) and the laws of the State of Delaware;
- b. to pay over to SWIMC, Inc. the actual damages suffered by SWIMC, Inc. through Hy-Tech's trademark infringement, false designation of origin and unfair

competition, including prejudgment interest, in accordance with 15 U.S.C. § 1117(a) and the laws of the State of Delaware;

c. to pay to SWIMC, Inc. three times the damages suffered by SWIMC, Inc. by reason of intentional and unlawful acts of Hy-Tech, in accordance with 15 U.S.C. § 1117(a);

d. to pay to SWIMC, Inc. punitive and exemplary damages for Hy-Tech's deliberate and willful trademark infringement, false designation of origin and unfair competition;

e. to pay to SWIMC, Inc. the costs of this action, including reasonable attorneys' fees, as provided in 15 U.S.C. § 1117;


f. to abandon all trademark applications and registrations for marks containing or consisting of ELASTO-SEAL and any marks confusingly similar to the ELASTO-SEAL mark; and

g. file with this Court and serve on counsel for SWIMC, Inc. within thirty (30) days after entry of an injunction issued by this Court, a sworn written statement as provided in 15 U.S.C. § 1116.

3. Awarding SWIMC, Inc. such further relief as this Court deems just and equitable.

Dated: February 8, 2008

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Counsel for SWIMC, INC.

EXHIBIT "A"



**Space Age Ceramic
INSULATING ROOF PAINT
Cool Roof Coatings**

Selected By
NASA
Spinoff
Technology
Product
2003

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Insulating Roof Paint - Cool Coatings Elastomeric Roof Paints

Insul Cool-Coat #2000 For any sloped roof with good water runoff.
Roof Guard #2050 Designed for flat roofs that are prone to ponding water.
Permacoat Plus #2100 Any roof, sloped or flat requiring a Class "A" Fire Rating!
Bus Kote #2150 Bus & Recreational Vehicle Coating
Elastoseal #60 Clear elastomeric roof coating for shingles and shakes

Hy-Tech Cool Roof Coatings are high-performance, water-based coatings which are designed to insulate, seal, restore and protect roof surfaces. These thick rubber like ceramic reinforced paints adhere well over metal roofs, wood, shingle roofs, built-up roofs with dried-out asphalt or aluminum coatings, foam insulation, polyester plastic panels, concrete, and cement tiles and many single ply roofing materials.

Features:

Installation ease, with Hy-Tech Roof Coatings you don't have to tear off and dispose of your old roof. This can be a major advantage because tear-offs and landfill disposal can dramatically increase installation costs, sometimes as much as 50% of the total roofing job. Tear-offs are costly and can also result in interior water damage during installation.

Weight savings. Hy-Tech Roof Coatings are well-suited for application over an existing roof and they are up to 10 times lighter than traditional materials, so there's minimal weight or stress on your building.

Save the environment. No fumes from tar, solvent-based glues, or hazardous materials to take to the landfill.

Durability Hy-Tech Insulating Roof Paints offer superior mildew resistance, soundproofing, UV reflectivity, and are resistant to ozone, acid rain and other air-borne contaminants.

Energy savings are a big plus with Hy-Tech Roof Coatings. The insulation and reflective properties provide a built-in thermal barrier against winter cold and summer heat, which can reduce heating and air conditioning costs.

In tests conducted by the Lawrence Berkeley National Laboratory, white reflective roof coatings saved up to 50% in energy costs. Savings will vary depending upon roof assembly, insulation thickness, roof area and climate.

Uses

- * Mobile Home Roofs * Metal Buildings * Shipping Containers
- * Truck and Cargo Transportation Vehicles * Hangers and Industrial buildings
- * Buses-RV's-Mobile Homes * Barns and Animal Shelters
- * Grain Bins * Modular Homes * Metal Storage Tanks

Energy savings can add up quickly paying you back for choosing Hy-Tech energy-saving, seamless, insulating ceramic, roof coatings. Of course you can always replace your roof with the same asphalt roofing systems that we have

Product Information
Insulating Additive For Paint
PAINT LIST
Primers
Clear Coatings
House Paints
Roof Coatings
Insul Cool-Coat
Roof Guard
Permacoat Plus
Bus Kote
Elastoseal
Specialty Coatings
Fire Retardants
Sundries Supplies
Technical Info
Testimonials
FAQ'S
How To Paint
How to Order
Shipping
International Sales
Storefront
Privacy
Safe Shopping
Contact
Questions?
Site Map
HOME
Become a reseller
Search This Site
<input type="text"/>
<input type="button" value="Go..."/>

always used, high heat absorbing, quick to dry out and crack, requires imported oil and not at all friendly to the environment, roof tear off's are putting a real strain on our nations landfills.



Which Hy-Tech Insulating Roof Coating is for your application?

- Insul Cool-Coat #2000** For any sloped roof with good water runoff.
- Roof Guard #2050** Designed for flat roofs that are prone to ponding water.
- Permacoat Plus #2100** Any roof, sloped or flat requiring a Class "A" Fire Rating!
- Bus Kote #2150** Bus & Recreational Vehicle Coating
- Elastoseal #60** Clear elastomeric roof coating for shingles and shakes
- Examples..Before and After**

House Paints	Roof Coatings	Clear Coatings
------------------------------	-------------------------------	--------------------------------

Primers-Sealers	Fire Retardants	Specialty Coatings	Supplies-Sundries
---------------------------------	---------------------------------	------------------------------------	-----------------------------------

HY-TECH
THERMAL SOLUTIONS
We Provide the "Solutions"
You Just Need to Apply Them!

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Mail Address: Hy-Tech - P.O. Box 216, Melbourne, FL 32902
Fax: (321) 984-1022
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Clear Waterproof Elastomeric Sealer



NASA



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Elasto-Seal #60

Elastomeric Clear Sealer, Finish

Please take note that Elasto-Seal is an elastomeric sealer perfect for many applications, but without insulating properties. It can be made to insulate by the addition of ThermaCells, but it will then have an opaque or "milky" look.

Elastoseal is a Clear Acrylic Elastomeric Sealant designed to seal and protect a wide range of surfaces including wood homes, stone, brick, masonry and concrete, roofing materials and reflective roof coatings. All white roof coatings start losing their reflectivity properties due to accumulated dirt and other contaminants. Until now clear protective coatings for elastomeric base coatings were not available due to their lack of flexibility which is necessary as roof coatings are designed to expand and contract with a roofs movement.

Elastoseal is based on the same resins used in our insulating roof coatings and features the same elongation, expansion and contraction properties of those coatings.

Elastoseal also features outstanding adhesion to the applied surface, elongation and recovery capabilities, a combination of UV absorbers and mildewcides enabling it to resist the effects of the most severe climatic conditions.

Now all roof coatings can be protected from surface contamination enabling them to perform as intended by reflecting radiant heat away from the buildings interior.

This self cleaning clear coat works much the same way as the clear coatings designed and used on automobile finishes.

Elastoseal is truly an all-purpose clear sealant and protectant, suitable for virtually any application.

Color: Milky White, dries clear.

Volume Solids: 41% \pm 2%

Flash Point: Same as water.

Coverage: 150-200 sq.ft. per gallon depending on the porosity of the surface.

Recommended Coverage: The number of coats depends on surface porosity; however, one coat is all that is normally needed on a well sealed surface.

Min. Surface Application Temp.: 7.2°C / 45°F. Do not allow to freeze.

Drying Time: Will depend on climate conditions. Allow at least 2 hours drying time between coats. First coat must be thoroughly dry before applying second coat.

Limitations Not suitable for below grade use.

Surface Preparation Surface must be clean and free from dirt, dust, grease, oil, mildew, wax, loose paint.

Roof Shingles should be sealed with #1220 Bond-it, our roof grade bonding/sealer for roofs to lock in loose granular minerals.

Application: Best applied by airless spraying or roller.

Can be applied with a short nap roller cover.

Clean Up Cleanup immediately after use with soap and water.

CAUTION:

Do not apply within two hours of sunset, rain, fog or freezing temperatures. All coatings must be completely dry before exposing to water or foot traffic. Keep all containers covered when not in use. Keep away from children.

Available in 1 Gal and 5 Gal containers

\$39.95 Per Gal...5 Gallon \$199.75

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Tech Support: 321-984-9777 * Fax: 321-984-1022

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SWIMC, Inc., a Delaware Corporation

(b) County of Residence of First Listed Plaintiff New Castle, DE
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Kevin J. Mangan, Esq., Womble Carlyle Sandridge & Rice PLLC
222 Delaware Ave., Ste. 1501, Wilmington, DE 19801

DEFENDANTS

Hy-Tech Thermal Solutions, LLC and Hy-Tech Distributors, Inc.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. Sections 1051, et seq.

Brief description of cause: Complaint for trademark infringement, false designation of origin and unfair competition

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE n/a

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

February 8, 2008

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RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____